

SUPPLEMENTARY AGENDA 1

Distributed on 6 April 2018



INNER WEST COUNCIL

COUNCIL MEETING

TUESDAY 10 APRIL 2018

6.30pm

Location: Ashfield Service Centre, 260 Liverpool Road, Ashfield

**MEETING AGENDA – PRECIS
SUPPLEMENTARY ITEMS**

The following report/s appear as late item/s with Mayoral approval as information required for the preparation of the report/s was not available at the time of distribution of the Business Paper.

1 Staff Reports

| ITEM | Page |
|--|-------------|
| C0418 Item 22 Addison Road Community Centre; Greek Atlas Club; and Village Church, Annandale | 3 |

Item No: C0418 Item 22

Subject: ADDISON ROAD COMMUNITY CENTRE; GREEK ATLAS CLUB; AND
VILLAGE CHURCH, ANNANDALE

Prepared By: Jamie Erken - Manager Development Assessment

Authorised By: Elizabeth Richardson - Deputy General Manager Assets and Environment

Item 22

SUMMARY

This report responds to a resolution of Council seeking advice on the compliance issues associated with the Addison Road Community Centre at 142 Addison Road, Marrickville and the Greek Atlas Club at 96 Illawarra Road, Marrickville.

The report also considers a request from the Village Church in Annandale to refund Development Application and Construction Certificate fees associated with the 'Village Green' works recently carried out at the Church.

RECOMMENDATION

THAT Council:

- 1. Receive and note the report; and**
- 2. Decline the request to refund the Development Application and Construction Certificate fees associated with the 'Village Green' works recently carried out at the Village Church.**

BACKGROUND

Addison Road Community Centre and Greek Atlas Club

At its meeting on 27 March 2018 the Council moved the following motion:

"THAT a report come back to the next Ordinary Council meeting about the compliance issues for Addison Road Community Centre and Greek Atlas Club with options on how these issues can be rectified."

For the purpose of this report, the compliance issues associated with each of the two properties will be considered separately.

Village Church, Annandale

Council has received a request from the Minister of the Village Church in Annandale to refund the Development Application and Construction Certificate fees associated with the 'Village Green' works recently carried out at the Church. This request is also considered separately in this report.

ADDISON ROAD COMMUNITY CENTRE – 142 ADDISON ROAD, MARRICKVILLE
(i) The Current Approval

Determination No. 201600681, dated 30 March 2017, approved a cross cultural celebration for up to 500 people in the Addison Road Community Centre every second Saturday for a period of 13 months commencing on 6 May 2017 with the event including live music, food information stalls, entertainment and ARC art exhibitions.

The consent includes the following most relevant conditions:

3. *Access to each event being restricted only to patrons with purchased tickets up to a maximum capacity of 500 patrons for the entire duration of the event.*

Reason: *To confirm the details of the application as submitted by the applicant and terms of Council's approval.*

4. *Each event being restricted as follows:*

- a) *A maximum of 25 food/merchant stalls;*
- b) *1 stage located within the Great Hall; and*
- c) *A maximum of 50 staff (stall holders, event performers, event managers/organisers and security staff).*

Reason: *To confirm the details of the application as submitted by the applicant and terms of Council's approval.*

9. *The event and event preparation works must be restricted to the following hours:*

- a) *Deliveries and erection of infrastructure and all other works associated with the preparation for the event being carried out between the hours of 1:00pm and 4:00pm on the day of the event;*
- b) *The hours of operation of the event being restricted to between the hours of 4:00pm to 8:00pm on the day of the event;*
- c) *Dismantling and removal of infrastructure and cleaning being completed between the hours of 8:00pm and 10:00pm on the day of the event; and*
- d) *The organisers to ensure that the approved hours are adequately advertised and adhered to at all times by all contractors, service providers and patrons of the event.*

Reason: *To ensure the hours of operation does not interfere with the amenity of surrounding residential areas and general park users.*

(ii) Background

Following the receipt of complaints from the community, on 2 March 2018, Council staff contacted the Addison Road Community Centre in relation to markets being hosted beyond the scope of the development consent. The purpose of the phone call was to explain Council's role, responsibilities and the expectations with compliance in relation to the markets in how they operate.

The complaints from the community related to the number of market stalls and a breach of the approved hours of operation.

Further to this telephone call, on 2 March 2018, a letter was emailed to the CEO of the Addison Road Community Centre outlining the requirements/limitations of the existing consent and advising that if breaches were detected, on the spot fines may be issued without further notice. A copy of the development consent was provided to the Addison Road Community Centre.

(iii) Key Breaches

On 3 March 2018 Council Officers attending the site identified the following key breaches:

- There were more than 100 food stalls in contravention of the consent which limits the event to a maximum of 25 food/merchant stalls.
- There were no pre-ticketed sales to the public restricting the event to a maximum of 500 people resulting in more than 5,000 people attending the event (it was reported in the Inner West Courier that 9,000 people attended the event).
- The event was an all-day event and not restricted to the approved hours of operation (i.e. 4.00pm to 8.00pm).
- The above non-compliances resulted in significant traffic and parking implications for the surrounding area.

Given the significance of the breaches a penalty infringement notice was issued.

(iv) Path Forward / Next Steps

On 13 March 2018 the Addison Road Community Centre lodged a Section 4.55 application that sought to modify Determination No. 201600681, dated 30 March 2017, in the following manner:

- Extend the time limited consent for an additional 15 months;
- Make the event a weekly free event for “approximately” 5,000 people;
- Modify the event times to 9.00am to 5.00pm (with set up and pack up from 6.00am to 6.00pm); and
- Increase the number of stalls to 120.

The Section 4.55 application was rejected by Council as the proposal was found to be not “substantially the same development as the development for which consent was originally granted”. The proponent was advised that it is not possible to use the provisions under Section 4.55 of the Environmental Planning and Assessment Act to increase the intensity of the event in the manner proposed (i.e. increase the number of stalls from 25 to 120; increase the frequency of the event from fortnightly to weekly; and increase the number of attendees from 500 to 5,000).

On 27 March 2018 the Addison Road Community Centre lodged a Section 4.55 application that sought to modify Determination No. 201600681, dated 30 March 2017, to extend the existing time limited consent for an additional 15 months (until Saturday 29 June 2019) but with no other changes sought to the intensity / operation of the current approved event. That application is currently under assessment.

In order to seek approval for an event containing 120 stalls for up to 5,000 people, the Addison Road Community Centre would need to submit a Development Application. The Development Application would need to be accompanied by the relevant supporting documentation, including but not limited to the following:

- Detailed site plan indicating the event layout;
- Statement of Environmental Effects addressing matter such as
 - Number of attendees;
 - Potential Acoustic impacts;
 - Hours of event including set up and dismantling of infrastructure;
 - Parking/traffic impacts;
- Event Management Plan
- Security Management Plan
- Waste Management Plan

- Noise Management Plan
- Traffic Management Plan

The Development Application would be notified to surrounding residents for comment.

Given the size of the event, the proponent would be encouraged to lodge a Pre-Development Application to seek preliminary advice from Council on the proposed event and the level / type of documentation that would be expected as part of any Development Application.

(v) Fees associated with the Pre-DA and DA

Under the current Fees and Charges, the fee for a Pre-DA meeting with a written letter of advice is \$393. The fee for the subsequent Development Application would be around \$800 (depending on the approximate cost of work).

GREEK ATLAS CLUB – 96 ILLAWARRA ROAD, MARRICKVILLE

(i) The Current Approval

Determination No. 200800498, dated 11 March 2009, approved an application to demolish part of the rear of the premises and carry out alterations and additions to erect a new single storey wing to the rear of the former town hall and provide a driveway from Council Street and 3 off street parking spaces.

The approved development only related to the alterations and additions to the existing building and not the use of the premises. This was explicitly spelt out in the Planning Assessment Report for DA200800498 which included the following commentary:

“Whilst the applicant identified that the premises is to be used by the Greek Atlas League, the subject development application does not relate to the use of the premises, but rather only relates to the proposed alterations and additions. The use of the premises will need to be the subject of a future development application.”

In line with the above, Condition 5 of the subject determination reads as follows:

5. *A separate Development Application being submitted to, and approved by, Council for the use of the premises prior to the occupation of the building.*
Reason: *To advise the applicant of the necessity of obtaining Council approval for the use of the premises prior to occupation.*

A review of Council’s records has found that a Construction Certificate was issued for the approved building works but an Occupation Certificate is yet to be issued for these works.

To date no development application has been lodged for the use of the premises.

(ii) Background

On 19 February 2018 Council received a complaint regarding the opening of a café at the subject address.

The allegations included claims that events and functions were being held at the premises up until 12.30am causing amenity impacts for residents in the neighbourhood.

The NSW Police made contact with Council and advised that they had received complaints regarding alcohol being sold from the premises without a liquor licence.

(iii) Key Breaches

- Council's investigation revealed that the premises were operating as an unauthorised café (i.e. "food and drink premises").
- On 5 March 2018 a Notice of Intention to issue an Order was served for the unauthorised use of the premises as a café.
- On 14 March 2018, a Notice of Intention to issue an Order was served for fitting out a commercial kitchen without consent and a penalty infringement notice was issued for the unauthorised building works and land use.
- Council has been advised that the NSW Police and Liquor & Gaming NSW have also investigated breaches relating to the selling of alcohol without a liquor license;
- The NSW Police have advised that they have seized alcohol for trading without a liquor licence.

(iv) Path Forward / Next Steps

As identified above, there is no approval for the current use of the premises. The most recent approved use for the premises was Determination No. 15719, dated 18 November 1994, which approved an application to use the existing building as a women's library with associated meeting rooms and a tea room.

The subject property is zoned R2 – Low Density Residential and "food and drink premises" are prohibited under the zoning provisions applying to the land. Notwithstanding "community facilities" are permissible with consent under the zoning provision of the land.

The subject property is listed as a heritage item with State Significance (Item 94 - Former Marrickville Town Hall, including interiors) under Marrickville Local Environmental Plan (MLEP) 2011. The Conservation Incentive Clause in MLEP 2011 may allow a use that would otherwise not be allowed under the Plan if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

The current use of the premises requires development consent from Council. Given the potential issues around permissibility, the proponent would be encouraged to lodge a Pre-Development Application to seek Council advice on the suitability of the proposed use and the level of documentation that would be expected as part of any development application.

(v) Fees associated with the Pre-DA and DA

Under the current Fees and Charges, the fee for a Pre-DA meeting with a written letter of advice is \$393. The fee for the subsequent development application would be around \$800 (depending on the approximate cost of work).

VILLAGE CHURCH ANNANDALE – CNR JOHNSTON & BOOTH STREET, ANNANDALE

Council has received a request from the Minister of the Village Church in Annandale (addressed to the Mayor) seeking a refund of the Development Application and Construction Certificate fee's associated with the 'Village Green' works recently carried out at the Church.

The request reads as follows:

"I am writing to thank you for your goodwill and \$20,000 support through the 'Stronger Communities Grant program' in creating a new 'Village Green' for Annandale and also to ask you for one last piece of support in relation to this.

The program is coming along well, and although things are tight, we are looking forward to having the project opened on Sunday April 1, by both yourself (as Inner West Council Mayor) and our State MP Jamie Parker (recognising the State Government's contribution of \$25,000 towards this project).

Despite the architect, project manager and applicant all donating significant amounts of time and expertise we are running over budget.

Accordingly, we request that Council please give consideration to refunding the cost of both the Development Application (\$758.14) and the Construction Certificate (\$554.13) as a gesture of support towards this community project."

Save for some minor exceptions as set out in Council's fees and charges, there is no Council policy which sets out circumstances where fees should or will be waived. The application did not arise as a result of any errors or omissions by Council and accordingly it is recommended that the request be declined.

FINANCIAL IMPLICATIONS

Nil.

OTHER STAFF COMMENTS

Nil

PUBLIC CONSULTATION

Not applicable

ATTACHMENTS

Nil.